

House Bill 945

By: Representatives Amerson of the 9<sup>th</sup> and Williams of the 4<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Article 11 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to miscellaneous provisions of uniform rules of the road, so as to change certain provisions relating to drivers' exercise of due care and proper use of radios and mobile telephones; to prohibit certain use of wireless telecommunications devices; to provide for enforcement; to provide exceptions; to provide penalties for violations; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 11 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to miscellaneous provisions of uniform rules of the road, is amended by revising Code Section 40-6-241, relating to drivers' exercise of due care and proper use of radios and mobile telephones, as follows:

"40-6-241.

A driver shall exercise due care in operating a motor vehicle on the highways of this state and shall not engage in any actions which shall distract such driver from the safe operation of such vehicle; ~~provided; provided, however,~~ that the proper use of a radio; ~~or citizens band radio, or mobile telephone~~ shall not be a violation of this Code section; and provided, further, that use of a wireless telecommunications device, as defined in Code Section 40-6-241.1, shall be subject to the provisions of Code Section 40-6-241.1."

**SECTION 2.**

Said article is further amended by inserting a new Code section to read as follows:

"40-6-241.1.

(a) As used in this Code section, the term:

(1) 'Engage in a wireless communication' means talking, sending, reading, or listening on a wireless telecommunications device.

(2) 'Wireless telecommunications device' means a cellular telephone, a text-messaging device, a personal digital assistant, a stand alone computer, or any other substantially similar wireless device that is used to initiate or receive a wireless communication with another person. It does not include citizens band radios; citizens band radio hybrids; commercial two-way radio communication devices; subscription-based emergency communications, in-vehicle security, navigation, and remote diagnostics systems; or amateur or ham radio devices.

(b)(1) No person shall operate a motor vehicle upon a highway while using a wireless telecommunications device to engage in a wireless communication while such motor vehicle is in motion.

(2) The trier of fact may, in its discretion, infer that an operator of a motor vehicle who held a wireless telecommunication device to, or in the immediate proximity of, his or her ear while such motor vehicle was in motion was engaged in a wireless communication within the meaning of this subsection. Such inference may be rebutted by evidence tending to show that the operator was not engaged in a wireless communication.

(c) Subsection (b) of this Code section shall not apply to:

(1) The use of a wireless telecommunications device for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office, or health clinic; an ambulance company or corps; a fire department; or a police department; or

(2) Any of the following persons while in the performance of their official duties: a law enforcement officer; a member of a fire department; or the operator of an emergency vehicle designated as such under Code Section 40-8-92.

(d) A violation of subsection (b) of this Code section shall be a misdemeanor punishable by a fine of not more than \$300.00."

### **SECTION 3.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

### **SECTION 4.**

All laws and parts of laws in conflict with this Act are repealed.